IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO: 4271 of 2005

Between:

1. Allanki Ekambaram, S/o A. Venkatesham, aged 37 yrs.,
2. Allanki Uma Devi, W/o Ekambaram, aged 32 yrs,
3. Allanki Sekhar, S/o A. Venkatesham, aged 32 yrs,
4. Allanki Rama Devi, W/o A. Srihari, 29 yrs,

All are residents of H.No.4-32-5, Shapoornagar, Quthbullapur Mandal and Municipality, R.R. District.

..... PETITIONERS

AND

1. The District Collector, Ranga Reddy District, Lakdikapul, Hyderabad.
2. The Special Deputy Collector L.A. (I & Ds), 1-2-288/65/66, Domalguda, Hyderabad.
3. A.P. Industrial Infrastructure Corporation Ltd, rep. by its Vice Chairman & Managing Director, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction more particularly one in the nature of writ of certiorari declaring the notification dt.05-5-2003 under Section 4(1) of the Act and declaration dt.03-7-2004 under Section 6(1) of the Act pertaining to Sy.No.111/2 of Bahadurpally Village, Quthbullapur Mandal, R.R. District as illegal, arbitrary and without jurisdiction and issue rule nisi and quash the same and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.K.R.RAMAN

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: GP FOR LAND ACQUISITION

Counsel for the Respondent No.3: Mr. E.Madan Mohan Rao
(Standing Counsel for A.P.I.I.C.L.)

The Court made the following:

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.4271 of 2005

ORDER:

When the land belonging to the petitioners was notified for acquisition under Section 4(1) of the Land Acquisition Act, 1894 (the Act), on 05-05-2003 and a draft declaration under Section 6 of the Act was made on 06-05-2003, petitioners filed Writ Petition No.12443 of 2003 questioning the draft declaration, on the ground that it was made prior to publication of the notification under Section 4(1) of the Act on 12-05-2003. In that writ petition by the order dated 23-07-2003, a learned single Judge gave an interim direction not to dispossess the petitioners from the land till further orders. The writ petition was ultimately disposed of on 12-12-2003 setting aside the draft declaration dated 13-05-2003, with an observation that it is open to the authorities to issue a fresh declaration after following the due process of law. Consequently, draft declaration dated 03-07-2004 under Section 6 of the Act was published in the Gazette dated 06-07-2004. The said declaration is the subject matter of this petition.

2. The main contention of the learned counsel for the petitioners is that since notification dated 05.05.2003 under Section 4(1) of the Act was published on 12-05-2003, draft declaration dated 03-07-2004 under Section 6 of the Act published on 06-07-2004 being beyond one year from the date of notification under Section 4(1) of the Act is not proper and hence is liable to be quashed. He placed strong reliance on **PADMA SUNDARA RAO v. STATE OF T.N.** in support of his contention. The contention of the learned Government Pleader is that since further proceedings, in pursuance of the earlier declaration dated 13-05-2003, were stayed, between 23.07.2003 and 12.12.2003, the period of more than 4 months covered by the stay is

liable to be excluded from computing the period of one year by relying on **M. RAMALINGA THEVAR v. STATE OF T.N.**. In reply the contention of the learned counsel for the petitioners is that since the stay granted in W.P.No.12443 of 2003 was only with regard to the dispossession of the petitioners from the land, and since draft declaration under Section 6 of the Act was not stayed, respondents cannot claim the benefit of exclusion of the period covered by the stay.

3. Explanation-1 to Section 6(1) of the Act, lays down that while computing the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under Section 4 (1) of the Act is stayed by a Court has to be excluded. It is no doubt true that stay granted in Writ Petition No.12443 of 2003, is with regard to dispossession of the petitioners from that land, but further proceedings are not stayed. In **RAMALINGA THEVAR** case (2 supra) relied on by the learned Government Pleader, the apex Court relied on **SANGAPPA GURULINGAPPA SAJJAN v. STATE OF KARNATAKA**, where it is held that when dispossession alone is stayed by the Court, the period during which such stay operates would stand excluded from the period of 3 years covered by clause (1) of Section 6 of the Act. Therefore, though **RAMALINGA THEVAR** case (2 supra) relates to the passing of an award, but not to a declaration under Section 6 of the Act, it is clear that apex Court in **SANGAPPA GURULINGAPPA SAJJAN** case (3 supra) treated the stay of dispossession as stay of further proceedings, contemplated by Explanation-1 to Section 6(1) of the Act.

4. In this case, the stay granted in Writ Petition No.12443 of 2003 was in operation from 23-07-2003 to 12-12-2003 i.e. for more than 4 months. The draft notification under Section 4(1) of the Act was published on 12-05-2003. The impugned declaration under Section 6 of the Act was published on 06-07-2004. Since stay granted by the Court was in operation for more than 4 months, if that period of 4 months is excluded, the declaration under Section 6(1) of the Act published on 06.07.2004 would be very much within the time of one year from the date of publication of Section 4(1) notification on 12.05.2003.

5. Therefore, I find no grounds to quash the impugned draft declaration under

Section 6 of the Act published on 03-07-2004.

6. Therefore, the writ petition is dismissed. No costs.

(C.Y.Somayajulu, J.)

Date: 07-04-2005

Cvrk

To

1. The District Collector, Ranga Reddy District, Lakdikapul, Hyderabad.
2. The Special Deputy Collector L.A. (I & Ds), 1-2-288/65/66, Domalguda, Hyderabad.
3. The Vice Chairman & Managing Director, A.P. Industrial Infrastructure Corporation Ltd, Hyderabad.

4. 2 copies to the G.P. for Revenue, High Court Buildings, Hyderabad.

5. 2 copies to the G.P. for Land Acquisition, High Court Buildings, Hyderabad.

6. 2 CD copies.